



18 MAR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of  
OGATA, Koji et al.  
U.S. Application No.: 10/524,620  
PCT No.: PCT/JP2003/010673  
Int. Filing Date: 22 August 2003  
Priority Date: 22 August 2002  
Attorney Docket No.: F-8592  
For: CONTINUOUS CASTING OF  
MOLTEN STEEL FOR SHEET  
METAL

DECISION ON

PETITION

UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 22 August 2008.

**BACKGROUND**

On 17 March 2005, applicants filed a letter entitled "Submission of Declaration". It authorized the Office to charge the surcharge for late filing of the declaration and claimed that a declaration was filed "herewith". However, the file does not include a copy of the declaration.

On 26 July 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 14 July 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 26 July 2005.

On 02 May 2007, applicant filed a copy of an Express Mail label, a copy of a postcard receipt and a declaration of the inventors.

On 22 August 2008, applicants filed this petition under 37 CFR 1.181 to withdraw the holding of abandonment.

**DISCUSSION**

The petition filed by applicants on 15 May 2008 has been located in 10/524,621 and relocated to this file.

Applicants claim to have submitted a timely response to the Notification of Missing Requirements and ask that holding of abandonment be withdrawn. To withdraw the holding of abandonment, applicants must provide sufficient evidence of an earlier, timely filing with the Office and a copy of the earlier submission.

Applicants have provided a date-stamped postcard receipt identifying the above captioned application and listing a declaration. MPEP 503, states in part:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.

The Office is in receipt of a document filed on 17 March 2005 entitled "Submission of Declaration". The postcard lists a declaration/power of attorney, but does not identify the number of pages. The postcard is insufficiently itemized to establish that papers are missing.

### CONCLUSION

For the above reason, applicants' request to withdraw the holding of abandonment is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply may be construed as intentional delay.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents,

Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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